



Income and Corporation Taxes Act 1970

1970 CHAPTER 10

PART XIV

MISCELLANEOUS SPECIAL PROVISIONS

CHAPTER VI

OTHER PROVISIONS

Unremittable overseas income

418 Relief for unremittable income

- (1) Where a person is chargeable to tax by reference to the amount of any income arising in a territory outside the United Kingdom (hereafter in this section referred to as "overseas income"), then for the purposes of tax this section shall apply to the overseas income in so far as—
- (a) he is prevented from transferring the amount of the overseas income to the United Kingdom, either by the laws of that territory or any executive action of its Government or by the impossibility of obtaining foreign currency in that territory ; and
 - (b) he has not realised the overseas income outside that territory for a consideration in sterling or a consideration in some other currency which he is not prevented from transferring to the United Kingdom.

Overseas income to which this section applies is hereafter in this section referred to as unremittable.

- (2) Where a person chargeable as aforesaid gives written notice of his desire to be assessed in accordance with this subsection, then, in the first instance, account shall not be taken of the overseas income to the extent to which he shows to the satisfaction of the Board that the following conditions are satisfied with respect to it, that is to say—
- (a) that it is unremittable ; and

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- (b) that subsection (1)(a) above would continue to apply notwithstanding any reasonable endeavours on his part,
- and tax shall be assessed and charged on all persons concerned and for all periods accordingly; but, on the Board ceasing, as respects any part of the income, to be satisfied that the said conditions are satisfied, such assessments, reductions of assessments and repayments of tax shall be made as may be necessary to take account of it, and of any tax payable in respect of it under the law of the territory where it arises, according to their value at the date when, in the opinion of the Board, the said conditions cease to be satisfied with respect to it, and may be so made at any time not later than six years after that date.
- (3) Any notice under subsection (2) above shall be delivered to the inspector before an assessment made by reference to that income otherwise than in accordance with that subsection has become final and conclusive; and there shall be made all such assessments, reductions of assessments or repayments of tax as may be required by reason of any such notice.
- (4) In the case of the death of a person who, if he had not died, would, under subsection (2) above, have become chargeable to any income tax, the tax which would have been so chargeable shall be assessed and charged upon his executors or administrators, and shall be a debt due from and payable out of his estate.
- (5) Subject to subsection (2) above, the amount of any unremittable overseas income shall be determined by reference to the generally recognised market value in the United Kingdom (if any) or, in the absence of any such value, according to the official rate of exchange of the territory where the income arises.
- (6) Any appeal against an assessment which involves a question as to the operation of this section shall be made to the Special Commissioners, and not to the General Commissioners.
- (7) In this section " overseas income " shall include any gains chargeable under Case VII of Schedule D which arise in a territory outside the United Kingdom, but so long as gains so arising in any year of assessment are treated as unremittable, losses arising in that year in the same territory shall be allowable under Case VII only in so far as they exceed those gains or the part thereof for the time being treated as unremittable.

419 Relief from tax on delayed remittances

- (1) A person charged or chargeable for any year of assessment in respect of income from any source with tax which (apart from this section) falls to be computed under Case IV or V of Schedule D, or under Case III of Schedule E, on the amount of income received in the United Kingdom in the basis year for that year of assessment, may by making a claim require that the following provisions of this section shall apply, on showing that the following conditions are satisfied, that is to say—
- (a) that of the income so received all or part arose before the basis year but he was unable to transfer it to the United Kingdom before that year; and
 - (b) subject to subsection (2) below, that that inability was due to the laws of the territory where the income arose, or to executive action of its government, or to the impossibility of obtaining foreign currency in that territory; and
 - (c) that the inability was not due to any want of reasonable endeavours on his part.
- (2) For the purposes of this section, where in any year of assessment a person is granted a pension or increase of pension retrospectively, the amount paid in respect of any

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- previous year of assessment by virtue of the grant shall be treated as income arising in that previous year, whenever it is paid, and he shall be treated as having possessed the source of income from the time as from which the grant has effect; and subsection (1) (b) above shall not apply in relation to any amount so paid, except as respects the period after it becomes payable.
- (3) Where a person claims that the provisions of this section shall apply for any year of assessment as respects the income from any source, then for purposes of income tax—
- (a) there shall be deducted from the income received in the United Kingdom in the basis year for that year the amount as respects which the conditions in paragraphs (a), (b) and (c) of subsection (1) above are satisfied, so far as applicable; but
 - (b) the part (if any) of that amount arising in each previous year of assessment shall be treated as if it were income received in the United Kingdom in the basis year for that previous year.
- (4) Nothing in this section shall alter the year which is to be taken as the basis year for computing tax chargeable for any year of assessment under Case IV or V of Schedule D, and where under subsection (3) (b) above income is treated as received in the United Kingdom in a year which is the basis year for two years of assessment, it shall not by reason thereof be taken into account except in the year in which it arose.
- (5) Where a person makes a claim under this section for any year of assessment as respects income from any source chargeable under the said Case IV or V, and that year is the basis year for computing the tax with which he is chargeable on the income from that source both for that and for the succeeding year of assessment, tax shall not be chargeable for either of those years of assessment on the amount referred to in paragraph (a) of subsection (3) of this section (without however being charged a second time by virtue of paragraph (b) of that subsection).
- (6) No claim under this section shall be made in respect of any income more than six years after the end of the year of assessment in which the income is received in the United Kingdom.
- (7) There shall be made all such adjustments, whether by way of repayment of tax, assessment or otherwise, as may be necessary to give effect to this section, and notwithstanding anything in the Income Tax Acts, any adjustment to give effect to a claim under this section may be made at any time.
- (8) A person's executors or administrators may make any claim under this section which he might have made, if he had not died, and after a person's death—
- (a) any tax paid by him and repayable by virtue of a claim under this section (whoever made the claim) shall be repaid to his executors or administrators ; and
 - (b) any additional tax chargeable by virtue of such a claim shall be assessed and charged upon his executors or administrators and shall be a debt due from and payable out of his estate.
- (9) In this section " basis year " means, in relation to tax chargeable for any year of assessment under Case IV or V of Schedule D in respect of income from any source, the year by reference to which the amount of the income chargeable finally falls to be computed, and in relation to tax chargeable for any year of assessment under Case III of Schedule E, means that year of assessment; and any reference in this section to a source of income includes a part of a source.